IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.9.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.29281 of 2007

Golden Paper Mills
R.S.No.318/4
Kandhadu Village,
Marakkanam,
Tindivanam – 604 303 .. Petitioner

vs.

1. The Assistant Commissioner
   Commercial Tax Office,
   Villupuram, Villupuram District

2. The Deputy Commercial Tax Officer,
   Commercial Tax Office,
   Dindivanam,
   Villupuram District .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order, dated 23.3.2007, in Proc.RC/A5/7297/2005 of the first respondent and the consequential notice dated 23.8.2007 in Na.Ka.A1/1470/98, of the second respondent, and quash the same and consequently to direct the respondents to allow the petitioner to continue to make payments in installments as detailed under the deferral scheme.

For petitioner : Mr.L.G.Sahadevan
For respondents : Mr.R.Mahadevan
Additional Government Pleader

O R D E R

Mr.R.Mahadevan, the learned Additional Government Pleader takes notice for the respondents.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

3. It is submitted that the petitioner Mill had availed deferral scheme with the respondents for the payment of Tax under The Tamil Nadu General Sales Tax Act, 1959, and The Central Sales Tax Act, 1956, on 15.4.1998. The General Manager, District Industries Centre, Villupuram,

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had issued an eligibility certificate stating that the petitioner is entitled for I.F.S.T. deferral scheme, for a period of 9 years, as per G.O.Ms.No.500, Industries (MIG-II) Department, dated 14.5.1990.

4. It is further submitted that as per the eligibility certificate, the petitioner is eligible for deferral of sales tax upto Rs.75,17,000/- free of interest, commencing from 10.8.1997 to 9.8.2006. The petitioner had availed sales tax deferral of Rs.40,00,000/- out of Rs.75,17,000/-. The petitioner has been paying the installments from 10.8.2006, without fail. However, due to slump in the market and due to the shortage of supply of raw materials, the petitioner could not make the payments, from the month of September 1998 to November 1998, for a total amount of Rs.67,137/- within the prescribed time.

5. It has been further submitted by the petitioner that the first respondent, without affording an opportunity to the petitioner to pay the said amount, had proceeded to cancel the deferral agreement. Therefore, the petitioner has preferred the present writ petition challenging the impugned order of the first respondent made in Proc.RC/A5/7297/2005, dated 23.3.2007, cancelling the deferral agreement stating that it is illegal and invalid in the eye of law.

6. The learned Additional Government Pleader had submitted that the first respondent had passed the impugned proceedings in Proc.RC/A5/7297/2005, dated 23.3.2007, stating that the deferral agreement had been cancelled for the reason that the petitioner had failed to file the records relating to the audited Profit and Loss account for the financial year ending 2005-06 and since the petitioner had not renewed the Insurance Policy from 3.6.2006.

7. The learned counsel appearing on behalf of the petitioner had submitted that after the impugned order in Proc.RC/A5/7297/2005, dated 23.3.2007, had been passed, the Insurance Policy had been renewed from 3.6.2006 and that the petitioner is ready and willing to pay the entire defaulted amount, from August 2006, along with the interest calculated at 24% within a specified period.

8. On such submissions being made, the impugned proceedings of the first respondent in Proc.RC/A5/7297/2005, dated 23.3.2007, is set aside and the petitioner is directed to deposit the defaulted amount, from the month of August 2006 till the date of this order, along with the interest calculated at 24% on the said amount, before the Assessing Authority, the second respondent herein, within a period of two weeks from the date of receipt of a copy of this order. The petitioner is further directed to comply with the condition of the deferral agreement with regard to future payments.

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With the above directions, the writ petition is disposed of. No costs. Consequently, connected M.P.No.1 of 2007 is closed.\

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To:

1. The Assistant Commissioner
   Commercial Tax Office,
   Villupuram, Villupuram District

2. The Deputy Commercial Tax Officer,
   Commercial Tax Office,
   Dindivanam
   Villupuram District

+ 2 cc to Mr. L.G. Shah Devan, Advocate sR 56999
+ One cc to Govt Pleader (Taxes) SR 57480
SSV (co)
sg 17/9/07

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